

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Applications of)	MM Docket No. 93-75
TRINITY BROADCASTING OF FLORIDA,)	
INC.)	BRCT-911001LY
For Renewal of License of)	
Television Station WHFT(TV))	
Miami, Florida)	
GLENDAL E BROADCASTING COMPANY)	BPCT-911227KE
For Construction Permit)	
Miami, Florida)	

HEARING EXHIBITS

TRINITY BROADCASTING OF FLORIDA, INC.
TRINITY BROADCASTING NETWORK
NATIONAL MINORITY TELEVISION, INC.

TBF Exhibit _____

TRINITY BROADCASTING OF FLORIDA,
INC.,

TRINITY BROADCASTING NETWORK,

NATIONAL MINORITY TELEVISION,
INC.

Mullin, Rhyne, Emmons and Topel,
P.C.
1000 Connecticut Ave. - Suite 500
Washington, D.C. 20036-5333
(202) 659-4700

Federal Communications Commission

Docket No. 93-74 Exhibit No. 269

Presented by TBF

Disposition { Identified 1.27.94
Received 1.27.94
Rejected _____

Reporter A. W. W.

Date 1.27.94

Attachment 2

DECLARATION

George F. Gardner, under penalty of perjury, now declares that the following is true and correct to the best of his knowledge:

I am the President of Glendale Broadcasting Company, applicant for a new commercial television station on Channel 45 at Miami, Florida (File No. BPCT-911227KE). I am also President of Raystay Company, which is, the licensee of low-power television station W40AF at Dillsburg, PA.

I was the person who signed the Glendale application. At the time I signed the application, I believed all of the statements in that application were true and correct. I still believe that, as of that time, the statements in the application were true and correct.

When I signed the application, I certified that Glendale had reasonable assurance of site availability. The basis for that certification was a letter dated December 9, 1992, from James Sorensen to Gregory B. Daly, who Glendale had hired to obtain reasonable assurance of a transmitter site. When I signed the Glendale application, I had been informed that Mr. Daly had signed the letter and sent it back to Mr. Sorensen, thus accepting Mr. Sorensen's offer. Until Trinity filed its motions against Glendale, I had no reason to believe that Mr. Sorensen had not received the signed letter or that the TAK Broadcasting site specified by Glendale might not be available. Counsel has informed me that David Harris, the General Manager of TAK Broadcasting's station in Fort Lauderdale, has confirmed that TAK is willing to

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negotiate a lease with Glendale if the Glendale application is granted.

With respect to Glendale's financial qualifications, Glendale is currently relying upon a bank letter from Northern Trust Bank of Florida to finance the construction and operation of its Miami station. Glendale amended its Miami application on March 26, 1992, to reflect that fact. With respect to the Miami application as originally filed, the statements I made in the December 20, 1991 letter to Mary Ann Adams (Exhibit 4 to the application) were true and correct. During the period when Glendale was relying upon my assets to construct and to operate both the Miami and Monroe, Georgia stations, I had sufficient assets to construct and to operate both stations.

Raystay Company is the licensee of low-power television (LPTV) station W40AF at Dillsburg, PA. Until April 8, 1993, it also held construction permits for LPTV stations at Lancaster and Lebanon, PA. Raystay has been deeply committed to the concept of LPTV. It has operated W40AF since 1988, and has worked very hard to make that station successful. Raystay's commitment to LPTV is best demonstrated by the fact that it has spent over \$750,000 earned in other operations to subsidize and to support the operations of W40AF.

The applications for construction permits for the Lancaster and Lebanon LPTV stations (as well as a fifth application for a construction permit for an LPTV station at Red Lion, PA) were filed on March 9, 1989. Those applications were signed by David A.

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Gardner, who at that time was Raystay's Vice President. At the time those applications were filed, it was Raystay's intention to build and to operate those stations. We intended to form a network of LPTV stations (which would include W40AF) that would serve south-central Pennsylvania. I also knew then that an unbuilt construction permit could not be sold for a profit, so it would have been meaningless for Raystay to apply for the stations if the stations were not going to be built. With respect to the transmitter sites specified in the Lebanon and Lancaster applications, I was never informed by anyone that those sites were unavailable to Raystay or that they were unsuitable as LPTV sites.

The reason the Lancaster and Lebanon LPTV stations were never constructed was the fact that W40AF lost a huge sum of money, as reflected in the financial statements provided elsewhere in this opposition. Despite Raystay's diligent efforts, W40AF has never been able to attract a significant over-the-air audience, nor has it been able to obtain carriage on cable television systems other than those owned by Raystay. I eventually made the decision that the Lancaster and Lebanon LPTV stations would not be financially viable. Raystay had discussions with potential buyers of the permits, but the Lancaster and Lebanon permits were never sold. In March of 1993, the decision was made to allow the Lancaster and Lebanon construction permits to be cancelled.

Raystay had sufficient funds available to construct and to operate all of the Lancaster and Lebanon LPTV stations. The funds

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that would have been used to construct these stations would have been Raystay's funds, not my personal funds.

If Glendale's application for a construction permit for a new television station in Miami is granted, I have every intention of constructing and operating that station. The potential audience and earning potential of a full-power television station in Miami are vastly greater than the combined potential audience or earning power for the LPTV stations that were not built. Furthermore, given the substantial amount of funds I anticipate Glendale will have to devote to prosecute Glendale's application, it would be preposterous for Glendale to prosecute its application without intending to build its station inasmuch as Glendale can never profit from a settlement.

June 2, 1993
Date

George F. Gardner
George F. Gardner